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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,226	06/20/2001	Robert L. Payer	1065us	4417

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EXAMINER

PATEL, TULSIDAS C

ART UNIT	PAPER NUMBER
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2839

DATE MAILED: 10/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/885,226

Applicant(s)

PAYER ET AL.

Examiner

T. C. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 27-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

## DETAILED ACTION

### *General Status*

1. This is a **First Action** on the Merits. Claims 1-34 are pending in the case, elected claims 1-26 are being examined (see election attachment); claims 27-34 being withdrawn from consideration. The election was made without traverse.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 2, 6 and 8-13 are rejected under 35 U.S.C. § 102(e) as being anticipated by Yamamoto (US 6,343,087).

Yamamoto in figure 4, discloses a micro-optical component comprising an optical element 8 (laser) for interacting with an optical beam (figure 1A), a mounting structure ~~20~~ for

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attaching the optical element to an optical bench, wherein the optical element is attached to the mounting structure by solid-phase welding or thermocompression bonding (column 7, lines 20-23). For claims 8-13, the laser is mounted on interconnect pattern 23 which is a coat of AuSn alloy, also layer 12 is metal layer which is bonded to layer 23.

4. Claims 1, 2, 6 and 8-13 are rejected under 35 U.S.C. § 102(e) as being anticipated by Sasaki et al. (US 6,393,171).

Sasaki et al. in figures 1-3, discloses a micro-optical component comprising an optical element 5 (laser) for interacting with an optical beam, a mounting structure 1 for attaching the optical element to an optical bench, wherein the optical element is attached to the mounting structure by solid-phase welding or thermocompression bonding (claims 10, 11)). For claims 8-13, the laser is mounted on interconnect pattern 2 which is a solder pad layer, also layer 9 is pad or metal layer which is bonded to pad 2.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-5, 7 and 14-26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto or Sasaki et al. in view of the Admitted Prior Art.

The Yamamoto or Sasaki et al. satisfies the limitations of claims 1, 2, 6, and 8-13. Sasaki et al. Also discloses use of lens in the system (column 5, lines 53-55). The Admitted Prior Art, (specification page 1, lines 5-7) also discloses use of a bench or mounting structure for mounting various components. Therefore, it would have been obvious for one of ordinary skill in the art to use a bench for supporting the component, so that they work well together. In so far as various types of optical elements (claims 5, 7 and 18 and 20) are concerned, the selection of a particular type of optical element would depend on the function of the assembly and hence it is a matter of design choice. The various welding methods (claims 3, 4, 16 and 17) would also depend on various design parameters.

7. The prior art made of record and not relied upon is considered pertinent to applicant's invention. Diaz (US 5,011,249) is cited for bench and thermocompression bonding, Sasaki (US 6,053,395) is cited for thermocompression bonding and various optical parts (column 20, lines 50-60), and Goossen (US 5,975,408) cited for thermocompression bonding.

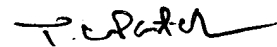
Applicant also should consider these references in response to this office action. Should issue arise concerning the rejection presented above, these references may be relied upon in a subsequent action to support the lack of novelty or obviousness of claimed subject matter to one of ordinary skill in the art.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to T. C. Patel whose telephone number is (703) 308-1736. The examiner can normally be reached on 6:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on (703) 308-2710. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1736.

  
T. C. Patel  
Primary Examiner  
Art Unit 2839

tcp

October 2, 2002

attach: election (2snr)

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-26, drawn to a micro-optical component, classified in class 385, subclass 134.
- II. Claims 27-34, drawn to process for assembling an optical system, classified in class 228, subclass 254.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product claimed can be made by a materially different process such as adhesive bonding.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with J. Grant Houston on July 31, 2002 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-26. Affirmation of this election must be made by applicant in replying to this Office action. Claims 27-34 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

A handwritten signature in black ink, appearing to read "T. P. Smith", is located in the lower right quadrant of the page.